

1 HB115
2 78966-2
3 By Representative Black (M)
4 RFD: Judiciary
5 First Read: 10-JAN-06
6 PFD: 01/05/2006

SYNOPSIS: Under existing law, the Alabama Sentencing Commission has adopted voluntary sentencing standards for 26 felony offenses. The commission was directed to develop voluntary sentencing standards to submit to the Legislature for approval, which standards will become effective if approved by an act of the Legislature. The commission was directed to develop standards based on an analysis of historical sentencing patterns and practices adjusted to achieve sentencing goals pursuant to Article 2, Chapter 25, Title 12, Code of Alabama 1975.

This bill approves the initial voluntary sentencing standards and the accompanying instructions and worksheets as adopted by the Sentencing Commission on September 30, 2005, and as filed with the Clerk of the Alabama Supreme Court, the Secretary of the Senate, and the Clerk of the House of Representatives. The standards provide recommended sentence ranges and dispositions when a

1 court sentences a defendant convicted of a felony
2 offense covered by the standards in lieu of the
3 wider ranges under existing statutory law.

4 The Sentencing Commission was directed to
5 develop and present additional voluntary
6 truth-in-sentencing standards to the Legislature
7 during the 2006 Regular Session. This bill would
8 extend the presentation of the truth-in-sentencing
9 standards to the 2009 Regular Session of the
10 Legislature.

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT
15

16 To adopt the initial voluntary sentencing standards
17 of the Alabama Sentencing Commission and to amend Section
18 12-25-34 of the Code of Alabama 1975, to extend the time for
19 the presentation of additional truth-in-sentencing standards
20 to the Legislature.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. (a) The Legislature finds the Alabama
23 Sentencing Commission has followed the directives of the
24 Legislature in the Sentence Reform Act of 2003, Article 2
25 (commencing at Section 12-25-30), Chapter 25, Title 12, Code
26 of Alabama 1975, to develop and recommend to the Legislature a
27 discretionary sentencing structure designed to protect public

1 safety by providing a fair, effective, and efficient criminal
2 sentencing system for this state by doing all of the
3 following:

4 (1) By developing a system of statewide voluntary
5 sentencing standards and worksheets for use in felony cases
6 for 26 felony offenses representing 87 percent of all felony
7 convictions in Alabama over a five-year period.

8 (2) By taking into account historical sentencing
9 data concerning time imposed and other factors that, after
10 analysis of historical data, appear to be relevant in
11 determining both the duration and disposition of sentences in
12 the applicable felony cases.

13 (3) By basing the voluntary sentencing standards on
14 historical sentencing practices adjusted to achieve sentencing
15 goals as established in Rule 26 of the Alabama Rules of
16 Criminal Procedure and Section 12-25-31, Code of Alabama 1975.

17 (b) The Legislature further recognizes that the
18 development of voluntary sentencing standards by the Alabama
19 Sentencing Commission is and should be a continuous process
20 and the Alabama Sentencing Commission has been directed to
21 continue the development of the voluntary sentencing standards
22 recommendations by collecting and analyzing sentencing data
23 and incorporating a continuum of punishment options, as
24 required by subdivision (1) of Section 12-25-33, Code of
25 Alabama 1975, and by identifying, testing, and recommending
26 modifications of the initial voluntary sentencing standards
27 and worksheets as may be necessary to accomplish the purposes

1 and goals set out in Article 2, Chapter 25, Title 12, Code of
2 Alabama 1975, and Rule 26 of the Alabama Rules of Criminal
3 Procedure.

4 Section 2. The initial voluntary sentencing
5 standards and the accompanying worksheets and standards, as
6 adopted by the Sentencing Commission on September 30, 2005,
7 and filed with the Clerk of the Supreme Court, the Secretary
8 of the Senate, and the Clerk of the House of Representatives,
9 are approved for implementation effective on October 1, 2006,
10 under the terms and conditions set out in Sections 12-25-34
11 and 12-25-35, Code of Alabama 1975.

12 Section 3. Section 12-25-34 of the Code of Alabama
13 1975, is amended to read as follows:

14 "§12-25-34.

15 "(a) Statewide voluntary sentencing standards shall
16 be developed and presented to the Legislature in stages over a
17 three-year period as follows:

18 "(1) By July 31, 2003, the commission shall develop
19 and distribute to all sentencing judges a reference manual
20 analyzing historical sentencing practices by duration of
21 sentence and disposition of felony offenders in Alabama. The
22 reference manual shall indicate those types of offenders
23 historically most likely to be sentenced to punishments other
24 than active incarceration where alternatives to active
25 incarceration are available.

26 "(2) Concurrently with the development and
27 distribution of the reference manual, the commission shall

1 develop and begin testing worksheets and voluntary sentencing
2 standards in selected circuits for selected felony offenses.

3 "(3) The commission shall develop and present the
4 initial voluntary sentencing standards to the Legislature
5 before or during the ~~2004~~ 2006 Regular Session. These
6 standards shall be introduced in the ~~2004~~ 2006 Regular Session
7 and shall become effective on October 1 following the ~~2004~~
8 2006 Regular Session, if approved by an act of the Legislature
9 passed during that session. The initial voluntary sentencing
10 standards based on sentences imposed shall apply ~~only~~ to
11 convictions for felony offenses ~~committed before~~ sentenced on
12 or after the effective date of this act and committed before
13 the effective date of the voluntary truth-in-sentencing
14 standards.

15 "(4) The commission shall develop and present
16 voluntary truth-in-sentencing standards to the Legislature
17 before or during the ~~2006~~ 2009 Regular Session. These
18 standards shall be introduced in the ~~2006~~ 2009 Regular Session
19 and shall become effective on October 1 following the ~~2006~~
20 2009 Regular Session, if approved by an act of the Legislature
21 passed during that session. The voluntary truth-in-sentencing
22 standards shall apply only to felony offenses committed on or
23 after the effective date of these standards.

24 "(b) Recommended sentence ranges shall be
25 established by standards that are based on historical
26 sentencing practices, adjusted to achieve sentencing goals as

1 established in Rule 26 of the Alabama Rules of Criminal
2 Procedure, this chapter, and Section 12-25-31.

3 "(c) Voluntary sentencing standards shall take into
4 account and include statewide historically based sentence
5 ranges, including all applicable statutory minimums and
6 sentence enhancement provisions, including the Habitual Felony
7 Offender Act, with adjustments made to reflect current
8 sentencing policies. No additional penalties pursuant to any
9 sentence enhancement statute shall apply to sentences imposed
10 based on the voluntary sentencing standards.

11 "(d) After adoption of the initial voluntary
12 standards and the voluntary truth-in-sentencing standards, any
13 modifications made by the commission shall be contained in the
14 annual report presented to the Governor, the Legislature, the
15 Chief Justice, and the Attorney General. An annual report
16 containing proposed modifications shall be presented to the
17 Governor, the Legislature, the Chief Justice, and the Attorney
18 General before or during ~~the third legislative day of~~ each
19 regular session of the Legislature. The modifications shall be
20 introduced during that regular session and shall become
21 effective on October 1 following the legislative session in
22 which the modifications were introduced, if approved by an act
23 of the Legislature passed during the legislative session in
24 which the modifications were introduced."

25 Section 4. All laws or parts of laws which conflict
26 with this act are repealed.

1 Section 5. This act shall become effective on
2 October 1, 2006.